IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6952 OF 2003

Lokjagruti Shikshan Mandal & Anr.... Petitioners.

Versus

State of Maharashtra & Ors.. .... Respondents.

Mr. M. A. Patil for the Petitioners.

Mr. M.H.Solkar, AGP for Respondent Nos.1 and 2.

Mr. N.V.Bandiwadekar for Respondent No.3.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 14, 2005.

P.C.:

This petition is directed against the order of the School Tribunal, Nashik dated 17th July, 2003 passed in Appeal No. NSK-44 of 2000. By the impugned order, the Tribunal has set aside the termination of respondent No.3 and directed his reinstatement with continuity in service. The Tribunal has also directed the petitioners to pay compensation of an amount equal to six months salary of the respondent.

2. The respondent No.3 who approached the School Tribunal, worked as an Assistant Teacher from 1995 to

2000 when he was terminated orally. There is a clear finding of the School Tribunal that his appointment was in open and clear post and not against a reserved post. It appears that the approval to 3rd respondent's appointment was unjustifiably withheld for a long time.

3. Mr. Patil, learned Counsel appearing for the petitioners, urged that the respondent No.3 is not entitled to be reinstated since there was a backlog of the Scheduled Caste category and the respondent No.3 being an OBC category candidate could not have been directed to be reinstated in that category. This contention is not borne out by the record. In fact, the petitioners have not filed their reply to the appeal as observed by the Tribunal. Moreover, the Tribunal has gone into this question and come to the conclusion that the respondent No.3 was appointed in a clear post inter alia on the basis of an admission of the Education Officer, Zilla Parishad, Nashik that the appointment was in such a post. The Tribunal has observed that no steps were taken for dealing with the so called backlog.

4. Having regard to the circumstances of the case and the fact that the 3rd respondent has been reinstated

admittedly, there is no reason to interfere with the order impugned in the exercise of the jurisdiction of this Court under Article 227 of the Constitution of India. Writ Petition is hereby dismissed.

Sd/-

S. A. BOBDE, J.